

Paul G. Shearer
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FILED
DEC 20 2005
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By On Deputy

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DISTRICT OF ALASKA

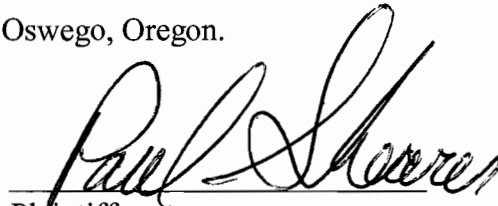
PAUL G. SHEARER,)	
)	
Plaintiff,)	Case No. A03-0263 CV (JKS)
)	(Consolidated)
vs.)	
)	
UNITED STATES OF AMERICA,)	
GALE A. NORTON, Secretary of the)	
Interior, DEPARTMENT OF INTERIOR,)	
and, NATIONAL PARK SERVICE,)	
)	<u>PLAINTIFF'S MOTION FOR LEAVE</u>
Defendants.)	<u>TO ACCEPT LATE FILED JURY</u>
)	<u>DEMAND PURSUANT TO RULE 39(b)</u>
)	<u>FED. RULES OF CIVIL PROCEDURE</u>

Plaintiff Paul G. Shearer moves pursuant to Rule 39(b), Fed. R.Civ. Proc., for leave of the Court to accept his late filed jury demand. Plaintiff's motion is supported by memorandum captioned Plaintiff's Opposition to United States' Motion to Strike Jury Demand and Memorandum in Support of Cross Motion F.R.C.P. 39(b), filed simultaneously herewith.

Plaintiff's jury demand is late filed within the meaning of Fed.R.Civ.Proc. 38(b) and may be rejected by the Court. However, Fed.R.Civ.Proc. 39(b) confers discretion on the Court to accept late filed jury demands. The Ninth Circuit has developed a stringent standard for discretionary authorization to accept late filed jury demands. Notwithstanding this standard, Shearer submits that he has cause for discretionary approval of this motion to accept late filed

appeal: Shearer was pro per at the time of filing his Complaint in this action, and the government's represented position was that Section 120 does not allow jury trials. Therefore, Shearer did not make a jury demand. Shearer later learned that this Court has issued rulings on the jury trial issue in Section 120 actions and actions brought under the Declaration of Takings Act, and filed his demand for jury trial.

DATED this 19 day of December, 2005, At Oswego, Oregon.

A handwritten signature in black ink, reading "Paul G. Shearer", written over a horizontal line.

Plaintiff
Paul G. Shearer
1532 Meadows Drive
Lake Oswego, Oregon 97034

CERTIFICATE OF SERVICE

I certify that on DECEMBER 19 2005 a copy of the above documents was served by placing said copies in a postage prepaid envelope, addressed to that person at the place and address stated below, and by depositing said envelope and contents in the US POSTAL mail at PORTLAND, Oregon.



Paul G. Shearer

Addressee(s):

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US District Court
Clerk of Court
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